

**ASSEMBLY BILL**

**No. 2346**

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**Introduced by Assembly Member Butler**

February 24, 2012

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An act to amend Section 6712 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2346, as introduced, Butler. Employment: field sanitation.

Existing law requires a prescribed occupational safety and health standard for field sanitation.

This bill would make technical, nonsubstantive changes to these provisions of law.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 6712 of the Labor Code is amended to  
2     read:  
3     6712. (a) The standards board shall, no later than December  
4     1, 1991, adopt an occupational safety and health standard for field  
5     sanitation. The standard shall comply with all of the following:  
6     (1) ~~The standard shall be~~ *Be* at least as effective as the federal  
7     field sanitation standard contained in Section 1928.110 of Title 29  
8     of the Code of Federal Regulations.  
9     (2) ~~The standard shall be~~ *Be* at least as effective as California  
10    field sanitation requirements in effect as of July 1, 1990, pursuant  
11    to Article 4 (commencing with Section 113310) of Chapter 11 of

1 Part 6 of Division 104 of the Health and Safety Code, Article 1  
2 (commencing with Section 118375) of Chapter 1 of Part 15 of  
3 Division 104 of the Health and Safety Code, and Section 2441 of  
4 this code.

5 (3) ~~The standard shall apply~~ *Apply* to all agricultural places of  
6 employment.

7 (4) ~~The standard shall require~~ *Require* that toilets are serviced  
8 and maintained in a clean, sanitary condition and kept in good  
9 repair at all times, including written records of that service and  
10 maintenance.

11 (b) Consistent with its mandatory investigation and reinspection  
12 duties under Sections 6309, 6313, and 6320, the division shall  
13 develop and implement a special emphasis program for  
14 enforcement of the standard for at least two years following its  
15 adoption. Not later than March 15, 1995, the division shall also  
16 develop a written plan to coordinate its enforcement program with  
17 other state and local agencies. The division shall be the lead  
18 enforcement agency. Other state and local agencies shall cooperate  
19 with the division in the development and implementation of the  
20 plan. The division shall report to the Legislature, not later than  
21 January 1, 1994, on its enforcement program. The plan shall  
22 provide for coordination between the division and local officials  
23 in counties where the field sanitation facilities required by the  
24 standard adopted pursuant to subdivision (a) are registered by the  
25 county health officer or other appropriate official of the county  
26 where the facilities are located. The division shall establish  
27 guidelines to assist counties that choose to register sanitation  
28 facilities pursuant to this section, for developing service charges,  
29 fees, or assessments to defray the costs of registering the facilities,  
30 taking into consideration the differences between small and large  
31 employers.

32 (c) (1) Past violations by a fixed-site or nonfixed-site employer,  
33 occurring anywhere in the state within the previous five years, of  
34 one or more field sanitation regulations established pursuant to  
35 this section, or of Section 1928.110 of Title 29 of the Code of  
36 Federal Regulations, shall be considered for purposes of  
37 establishing whether a current violation is a repeat violation under  
38 Section 6429.

39 (2) Past violations by a fixed-site or nonfixed-site employer,  
40 occurring anywhere in the state within the previous five years, of

1 one or more field sanitation regulations established pursuant to  
2 this section, Article 4 (commencing with Section 113310) of  
3 Chapter 11 of Part 6 of Division 104 of the Health and Safety  
4 Code, Article 1 (commencing with Section 118375) of *Chapter 1*  
5 of Part 15 of Division 104 of the Health and Safety Code, or  
6 Section 2441 of this code, or of Section 1928.110 of Title 29 of  
7 the Code of Federal Regulations, shall constitute evidence of  
8 willfulness for purposes of Section 6429.

9 (d) (1) Notwithstanding Sections 6317 and 6434, any employer  
10 who fails to provide the facilities required by the field sanitation  
11 standard shall be assessed a civil penalty under the appropriate  
12 provisions of Sections 6427 to 6430, inclusive, except that in no  
13 case shall the penalty be less than seven hundred fifty dollars  
14 (\$750) for each violation.

15 (2) Abatement periods fixed by the division pursuant to Section  
16 6317 for violations shall be limited to one working day. However,  
17 the division may, pursuant to Section 6319.5, modify the period  
18 in cases where a good faith effort to comply with the abatement  
19 requirement is shown. The filing of an appeal with the appeals  
20 board pursuant to Sections 6319 and 6600 shall not stay the  
21 abatement period.

22 (3) An employer cited pursuant to paragraph (1) ~~of this~~  
23 ~~subdivision~~ shall be required to annually complete a field sanitation  
24 compliance form which shall list the estimated peak number of  
25 employees, the toilets, washing, and drinking water facilities to  
26 be provided by the employer, any rental and maintenance  
27 agreements, and any other information considered relevant by the  
28 division for a period of five years following the citation. The  
29 employer shall be required to annually submit the completed form,  
30 subscribed under penalty of perjury, to the division, or to an agency  
31 designated by the division.

32 (e) The division shall notify the State Department of Health  
33 Services and the appropriate local health officers whenever a  
34 violation of the standard adopted pursuant to this section may result  
35 in the adulteration of food with harmful bacteria or other  
36 deleterious substances within the meaning of Article 5  
37 (commencing with Section 110545) of Chapter 5 of Part 5 of  
38 Division 104 of the Health and Safety Code.

39 (f) Pending final adoption and approval of the standard required  
40 by subdivision (a), the division may enforce the field sanitation

- 1 standards prescribed by Section 1928.110 of Title 29 of the Code
- 2 of Federal Regulations, except subdivision (a) of Section 1928.110,
- 3 in the same manner as other standards contained in this division.

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